



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Robert Van Antwerp
Commander U.S. Army Corps of Engineers
441 G Street, N.W.
Washington, D.C. 20314-1000

Dear Mr. Antwerp:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A).

The appeal at issue is brought by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC (collectively, AES). AES appeals the State of Maryland's objection to AES' proposed liquefied natural gas (LNG) terminal in Baltimore County, Maryland, and an associated 88-mile pipeline that would transport gas from the terminal to three interstate pipeline systems serving the Mid-Atlantic region. This project would affect the natural resources or land and water uses of Maryland's coastal zone.² Maryland's objection to the project precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

In this appeal, the Appellant has requested the Secretary override the State's consistency objection on two grounds:

- The proposed activity is "consistent with the objectives" of the CZMA. 16 U.S.C. § 1456(c)(3)(A). To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be

¹ Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 et seq. The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H.

² For additional background on AES' proposed project, please refer to the appeal record made available via the Internet at <http://www.ogc.doc.gov/czma.htm>. Appellants' Notice of Appeal and Initial Brief are available at this address; Maryland's Brief will be available after October 9, 2007. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.



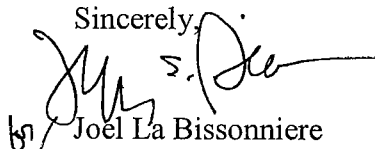
conducted in a manner consistent with the enforceable policies of the State of Maryland's coastal zone management program. *See* 15 C.F.R. § 930.121.

- The proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

Your agency is one of the Federal permitting agencies for AES' proposed project. As such, I am requesting any views your agency may wish to provide on any of the above grounds.³

In order for this appeal to be decided in a timely fashion, I respectfully request that your views be submitted no later than **November 8, 2007**. Please forward any comments to: Odin Smith, Attorney-Advisor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Smith at (301) 713-7398 or by email at odin.smith@noaa.gov.

Sincerely,

Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: John Sinatra, DOC-OGC

³ A similar administrative appeal under the CZMA has also been filed for the Weaver's Cove LNG terminal and pipeline project proposed for Fall River, Massachusetts. I anticipate requesting your agency's views regarding that project in the near future.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Joseph Kelliher
Chairman, Federal Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Mr. Kelliher:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).⁴ The CZMA requires that involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A).

The appeal at issue is brought by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC (collectively, AES). AES appeals the State of Maryland's objection to AES' proposed liquefied natural gas (LNG) terminal in Baltimore County, Maryland, and an associated 88-mile pipeline that would transport gas from the terminal to three interstate pipeline systems serving the Mid-Atlantic region. This project would affect the natural resources or land and water uses of Maryland's coastal zone.⁵ Maryland's objection to the project precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

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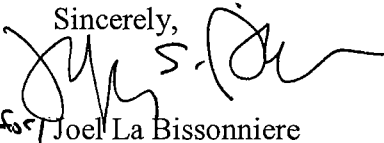
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UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Honorable Robert Gates
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Mr. Secretary Gates:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

The appeal at issue is brought by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC (collectively, AES). AES appeals the State of Maryland's objection to AES' proposed liquefied natural gas (LNG) terminal in Baltimore County, Maryland, and an associated 88-mile pipeline that would transport natural gas from the terminal to three interstate pipeline systems serving the Mid-Atlantic region. This project would affect the natural resources or land and water uses of Maryland's coastal zone.² Maryland's objection to the project precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

One of the grounds provided by the CZMA for the Secretary to override a State's objection is if the proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

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Joel La Bissonniere
Assistant General Counsel
for Ocean Services

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Fred Schwien
Executive Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20393

Dear Mr. Secretary Schwien:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

The appeal at issue is brought by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC (collectively, AES). AES appeals the State of Maryland's objection to AES' proposed liquefied natural gas (LNG) terminal in Baltimore County, Maryland, and an associated 88-mile pipeline that would transport natural gas from the terminal to three interstate pipeline systems serving the Mid-Atlantic region. This project would affect the natural resources or land and water uses of Maryland's coastal zone.² Maryland's objection to the project precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

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Your agency has been identified as one with a potential interest in AES' administrative appeal. As such, I am requesting any views your agency may wish to provide on the national security implications of AES' proposed project.³ In particular, I am seeking any information you would like to provide on whether a national defense or other national security interest would be significantly impaired if the project was not permitted to go forward as proposed.

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Assistant General Counsel
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

John I. Pray, Jr., BRIG GEN, USAF
Deputy Executive Secretary
National Security Council
Washington, D.C. 20504

Dear Brigadier General Pray:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

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UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Honorable Samuel Bodman
Secretary of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Secretary Bodman:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

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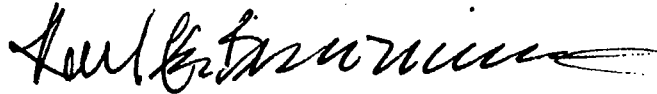


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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Honorable Condoleezza Rice
Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Rice:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Honorable Mary Peters
Secretary of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Secretary Peters:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

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OCT 11 2007

Attorney General
Department of Justice
Executive Secretariat
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. §930.122.

The appeal at issue is brought by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC (collectively, AES). AES appeals the State of Maryland's objection to AES' proposed liquefied natural gas (LNG) terminal in Baltimore County, Maryland, and an associated 88-mile pipeline that would transport natural gas from the terminal to three interstate pipeline systems serving the Mid-Atlantic region. This project would affect the natural resources or land and water uses of Maryland's coastal zone.² Maryland's objection to the project precludes Federal agencies from granting licenses or permits required by the project, unless the objection is overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

One of the grounds provided by the CZMA for the Secretary to override a State's objection is if the proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

1 Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 et seq. The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H.

2 For additional background on AES' proposed project, please refer to the appeal record made available via the Internet at <http://www.ogc.doc.gov/czma.htm>. Appellants' Notice of Appeal and Initial Brief are available at this address; Maryland's Brief will be available after October 9, 2007. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.



Your agency has been identified as one with a potential interest in AES' administrative appeal. As such, I am requesting any views your agency may wish to provide on the national security implications of AES' proposed project.³ In particular, I am seeking any information you would like to provide on whether a national defense or other national security interest would be significantly impaired if the project was not permitted to go forward as proposed.

In order for this appeal to be decided in a timely fashion, I respectfully request that your views be submitted no later than **November 8, 2007**. Please forward any comments to: Odin Smith, Attorney-Advisor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Smith at (301) 713-7398 or by email at odin.smith@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: John Sinatra, DOC-OGC

³ A similar administrative appeal under the CZMA has also been filed for the Weaver's Cove LNG terminal and pipeline project proposed for Fall River, Massachusetts. I anticipate requesting your agency's views regarding that project in the near future.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 11 2007

Honorable David Trulio
Executive Assistant to the President and Executive Secretary
Homeland Security Council
Eisenhower Executive Office Building
Washington, D.C. 20502

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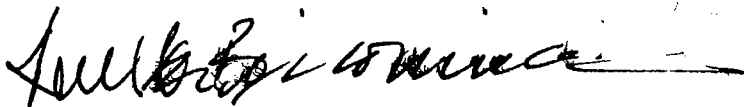


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